

MINUTES
CHARLOTTE COUNTY BOARD OF ZONING APPEALS
Wednesday, March 14, 2012 – 9 a.m. – Room 119
Charlotte County Administration Center
18500 Murdock Circle
Port Charlotte, FL 33948-1094

(These minutes are not official until they have been approved by the Charlotte County Board of Zoning Appeals)

Members Present

Tom Thornberry, *Chairman*
Michael Brown, *Vice-Chairman*
Katherine Ariens, *Secretary*
Bill Truex
Blair McVety

Staff Present

Derek Rooney, *Assistant County Attorney*
Shaun Cullinan, *Zoning Official*
Ken Quillen, *AICP, Planner III*
Diane Clim, *Recorder*

I. Call to Order

Chairman Thornberry called the March 14, 2012 meeting of the Board of Zoning Appeals to order at 9:00 a.m.

II. Pledge of Allegiance

Chairman Thornberry led the members and the audience in reciting the Pledge of Allegiance.

III. Roll Call

Roll call was taken; a quorum was present.

IV. Swearing In of Those Giving Testimony

Diane Clim swore in all persons who wished to provide testimony.

V. Approval of Minutes

ACTION: A motion was presented by Ms. Ariens and seconded by Mr. McVety to approve the minutes of the February 8, 2012 meeting of the Board of Zoning Appeals, motion passed with a unanimous vote.

VI. Disclosure Statements

Ex-parte forms indicating site visits concerning the petitions being presented before the March 14, 2012 Board of Zoning Appeals meeting were submitted.

VII. Introduction of Staff/Comments

Chairman Thornberry introduced staff. Shaun Cullinan, Zoning Official, Attorney Derek Rooney, and Chairman Thornberry made introductory remarks regarding the types of requests that the Board of Zoning Appeals would be reviewing and the standards which must be met, the notification process and how the Board of Zoning Appeals makes its decision.

VIII. New Business

The following petitions were advertised on February 28, 2012: VAR-12-01, SE-12-02, SE-12-03, SE-12-04 and SE-12-05

Chairman Thornberry announced Petition SE-12-02 would be heard last.

Petition #VAR-12-01

Harry Taylor, agent for Pines at Sandalhaven P.O.A., is requesting two variances, one to reduce the required 25' front yard setback by 23.45' to allow a 1.55' front yard setback; and another to reduce the required 15' street side yard setback by 14.13' to allow a 0.87' street side yard setback, for a pavilion, in a Mobile Home Conventional (MHC) zoning district. The property address is 9101 Pinehaven Way, Englewood, and is described as Tract D, of The Pines at Sandalhaven Subdivision, located in Section 27, Township 41 South, Range 20 East.

Ken Quillen presented general information and staff findings for the petition.

Applicant Presentation

Harry Taylor, L & T Engineering, agent for the applicant, said he was sworn in. He said the staff report is accurate but will answer any questions.

Chairman Thornberry opened the meeting to Public Hearing.

Public Input

Ed Sheahan, President at the Pines of Sandalhaven Property Owners Association (POA), said he was sworn in. He said the structure in question was built in 2004. None of us were living there at the time. They took over the POA in 2008. Up until that time, Guy Batsel, the developer was in charge of the POA. He built this structure and one other without a permit. They have now gone through the steps they were told were necessary.

Ms. Ariens asked if this property was granted to the POA? How did they acquire it?

Mr. Sheahan said in a development like this, at some point after a number of sales/development, the developer turns the property over to the POA and with that, we gained ownership of all the common areas. This is a common area.

Mr. Truex asked if they were aware of who built this gazebo? He wondered if they were licensed?

Mr. Sheahan said he couldn't answer that.

Mr. Taylor said an after the fact permit has been obtained by his company for the structure.

There being no further requests to speak for or against the petition, Mr. Truex moved to close the public hearing, seconded by Ms. Ariens. The public hearing was closed with a unanimous vote.

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition.

Board Member Comments and Questions

None

ACTION: A motion was presented by Blair McVety and seconded by Bill Truex that Petition VAR-12-01 be APPROVED based on the Community Development Staff Report dated March 6, 2012, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Variance with 2 conditions.

Motion was approved with a unanimous vote with the following two conditions:

1. The variances, as approved by the Board of Zoning Appeals, are to reduce the required 25' front yard setback by 23.45' to allow a 1.55' front yard setback; and another to reduce the required 15' street side yard setback by 14.13' to allow a 0.87' street side yard setback, for the existing pavilion.
2. These variances extend only to the existing pavilion and shall carry with this structure only. If the existing pavilion is ever removed or destroyed all future development must be constructed according to all applicable codes in existence at that time, unless a new variance is granted specific to the development proposed at that time.

Petition #SE-12-03

James Herston, agent for Lisa Lombardo, is requesting a special exception to allow a home occupation, consisting of a nail salon, in a Residential Single-family 3.5 (RSF-3.5) zoning district. The property address is 680 Skylark Lane, Port Charlotte, and is described as Lot 15, of Block 418, of Port Charlotte Sub-section 18 subdivision, located in Section 16, township 40 South, Range 22, East.

Ken Quillen presented general information and staff findings for the petition.

Applicant Presentation

The applicant was not present.

Chairman Thornberry opened the meeting to Public Hearing.

Public Input

No one spoke for or against this request.

There being no further requests to speak for or against the petition, Mr. Truex moved to close the public hearing, seconded by Mr. McVety. The public hearing was closed with a unanimous vote.

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition.

Board Member Comments and Questions

None

ACTION: ***A motion was presented by Bill Truex and seconded by Michael Brown that Petition SE-12-03 be APPROVED based on the Community Development Staff Report dated March 6, 2012, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with 3 conditions.***

Motion was approved with a unanimous vote with the following three conditions:

1. This special exception shall allow a home occupation, consisting of a nail salon, only as an accessory use to the existing single-family residence.
2. This special exception, allowing a home occupation, shall be conducted according to all of the standards and conditions of Section 3-9-79, as amended, of the Zoning Ordinance.
3. Any major modifications, or change in the type of home occupation conducted, shall require a modification to the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.

Petition #SE-12-04

Kelly Klaubert, agent for Horses for a Cure, Inc., is requesting a special exception to allow a private recreational facility, consisting of riding stables, in an Agriculture General (AG) zoning district. The property address is 31600 Bermont Road, Punta Gorda, and is described as parcels P1-3 and P1-3-1, located in Section 32, Township 40 South, Range 24 East.

Ken Quillen presented general information and staff findings for the petition.

Applicant Presentation

Julia DuBoice, representing Horses for a Cure, said Kelly had a last minute change in her calendar, so she is here for Kelly. This organization did start up quickly. We have already been doing these things in the past number of years. We have taken over this location. It is our sincere desire to ensure those with special needs, PTSD, or therapy be offered an opportunity to grow and develop through these programs we offer. This program is totally not for profit. It is run by 42 volunteers that dedicate on average 40-60 hours per week to ensure they are cared for. We are trained to do what we are doing. We have on site trainers for our horses, as well as trainers for those programs.

Currently, we are hosting the Special Olympics representing all of Charlotte County at this property. She requested this petition be approved.

Chairman Thornberry opened the meeting to Public Hearing.

Public Input

No one spoke for or against this request.

There being no further requests to speak for or against the petition, Mr. Truex moved to close the public hearing, seconded by Mr. McVety. The public hearing was closed with a unanimous vote.

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition.

Board Member Comments and Questions

None

ACTION: *A motion was presented by Michael Brown and seconded by Bill Truex that Petition SE-12-04 be APPROVED based on the Community Development Staff Report dated March 6, 2012, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with 4 conditions.*

Motion was approved with a unanimous vote with the following four conditions:

1. The special exception as approved by the Board of Zoning Appeals is to allow a private recreational facility, consisting of a riding stable.
2. This special exception extends only to the land included in the Site Plan and legal description submitted with this application.
3. The site plan submitted by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and codes are applicable to the erection and operation of any future buildings.
4. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.

Petition #SE-12-05

Julian Wright is requesting a special exception to allow a mobile home, to be used as a residence, in an Agriculture General (AG) zoning district. This property address is 3780 State Route (SR) 31, Punta Gorda, and is described as Parcel P2, located in Section 19, Township 40 South, Range 26 East.

Ken Quillen presented general information and staff findings for the petition.

Applicant Presentation

Jim Barnes, represented the applicant, and said he has been sworn in. He said he will answer any questions.

Mr. Thornberry asked Mr. Wright owns property south of this site. The trailer is going near the excavation area.

Mr. Quillen said Mr. Wright also owns this property too. His home is on another property south, but this site is also his.

Chairman Thornberry opened the meeting to Public Hearing.

Public Input

Julian Wright, owner/applicant, said he was sworn in. He said this request is so his son can live in the trailer. He works for me. I am a rancher/farmer. He has lived on this property all his life. He changed the location of where the trailer would be because of a gas pipeline along S.R. 31. The new site for the trailer is a safer location.

There being no further requests to speak for or against the petition, Ms. Ariens moved to close the public hearing, seconded by Mr. Truex. The public hearing was closed with a unanimous vote.

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition.

Board Member Comments and Questions

None

ACTION: A motion was presented by Bill Truex and seconded by Blair McVety that Petition SE-12-05 be APPROVED based on the Community Development Staff Report dated March 6, 2012, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with 4 conditions.

Motion was approved with a unanimous vote with the following four conditions:

1. The special exception as approved by the Board of Zoning Appeals is for a single mobile home to be used as a residence.
2. This special exception extends only to the land included in the Site Plan and legal description submitted with this application. Any modification, alteration or revision of this use may require a modification of the special exception.
3. The site plan submitted by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and codes are applicable to the erection and occupation of the proposed mobile home.

4. The mobile home erected on this property must be rated for the appropriate wind loads by HUD (or DCA) as evidenced by the Data Plate supplied by the manufacturer.

Petition #SE-12-02

Rusty Simmons, agent for Landings at Coral Creek, LLC, is requesting a special exception to allow an outdoor storage yard for boats and recreational vehicles, as an accessory use to the residential development in a Residential Single-family-3.5 (RSF-3.5) zoning district. The property address is 10331, 10341 and 10351 Placida Road, Placida, and is described as Tracts A and B, and Boat Storage Units (BSU) one (1) through twenty-two (22), of The Landings at Coral Creek Subdivision, located in Section 02, Township 42 South, Range 20 East.

Ken Quillen presented general information and staff findings for the petition.

There was some discussion about what was originally approved for this site approximately 10 years ago, and what the applicant requested last year before this Board.

Applicant Presentation

Rusty Simmons, agent for Landings at Coral Creek, LLC, said last time he was before this Board, he did not show the Type D landscape buffer or the placement of the privacy fence or security gate for this area. There is 15 to 18 foot vegetation and the 8' privacy fence behind the vegetation. They are willing to build the boat storage, numbers 6-11 along Placida Road within the 36 month time window, but currently just want to put the landscape and fence in. A few years from now, then they will build the boat storage building.

Ms. Ariens said she is assuming this is an economical issue because they do not have the finances at this time, is this correct?

Mr. Simmons said there are 2 sailboats and a trailer on the site now, and he needs to go through design standards, then they will build the building.

Ms. Ariens said the reason she asked is because the vegetation and fence will be a great expense and if they would just build the storage building in the front first, all would be good. Is there a reason you are opposed to the building in the front?

Mr. Simmons said he was under the assumption the landscape buffer, fence and gate are all required regardless of what goes in. After putting in the buffer, within 36 months, they should be able to put the building up with some units sold.

Mr. Cullinan, Zoning Official, explained the buffering required. He said the property adjacent immediately north, is CI and this type of use is allowed by right.

Mr. Simmons said the overhead power lines will restrict any tall boats coming into this site.

There was discussion about the original developer and approvals, what would happen if this applicant did not do what they requested within 3 years, and if the developer leaves.

Chairman Thornberry opened the meeting to Public Hearing.

Public Input

James DiBiasi, 10301 Coral Landings Lane, Unit 6, said when he first purchased his unit, the salesman told them you could put a boat here, everything would be done. He feels the site plan was approved 10 years ago, this Board is correct about buildings 4 and 5, they will not be able to be put in, and this is a delay tactic.

Paul Scribner, 100 Siesta Road, Rotonda, said he is the registered agent for the Placida Harbor Club, the community across the street from this site. He handed in a petition signed by 105 residents opposed to this request. He said there are a few boats and items at this site now, Code Enforcement has put a case against this violation and they feel this shows the applicant does not care to follow the rules.

Kevin Rowe, 11000 Placida Road, President of the Placida Harbor Condo Association, said trying to protect the most beautiful area of SW Florida, seems to be a never ending problem. We are not against development, as long as it is within keeping of the area and eco-system. This boat storage is not in character of the area. He is against this request.

Jay Cullivan, 11000 Placida Road, President of the Placida Harbor Club and Homeowners Association, said staff has said this request does not meet all the 6 criteria. For 25 years, their members have placed their boats/trailers in storage within a 3-5 mile radius. They are against this request.

Mary Wilson, 10310 Coral Landings Court, said they purchased their unit last year in April and were promised there would be a storage area for the boat. They just found out this morning they are in violation. No one ever told them. They were told to put the boat in this area. They have not honored their promises. She is sorry they are in violation and did not know.

William Haag, 11000 Placida Road, said usually at a boat storage facility, there is a spot to pressure wash your boat. There has to be a holding area for the water. He is concerned about this at this site, because the Coral Creek is very close.

Richard Flint, 11000 Placida Road, said he has lived in the area for 20 years. He asked the Board to consider 2 changes in Placida Road. First is the inclusion of Placida Road into the Florida Scenic Highway system. It says the County shall encourage the enhancement of designated scenic highway corridors 776, 771 and 775 and shall encourage the planting of canopy trees and native vegetation where feasible. The second change he would like to suggest is the change of traffic. There is more traffic now than 10 years ago. It is hard to pull out of their development. He said one of the exhibits from the original plan shows there will be a connection between the main part of the landings and the place where the trailers would be stored. That is no longer the

case. There are already 3 access points within 300 yards of each other. Another one would be a disaster, especially pulling a boat. He is against this request.

Penny Rieley, 510 Green Dolphin Drive, said surrounding this area is wetlands. Uplands are all along Coral Creek. She has been sworn in. She has been authorized to speak on behalf of the Cape Haze Property Owners Association. Her husband is the Secretary, and she has been the past President of the Women's Club and is currently their Secretary. This community was developed 60 years ago and since then, the residents have taken great pride in making our community a desirable place to live. She said the storage of trailers and boats could negatively affect the home values. She request this petition be denied.

Percy Angelo, 15 Spyglass Alley, she is against this request. She handed out papers with her background/qualifications. She is not participating as an attorney on this matter, but she is an attorney, registered in Illinois, practicing environmental and land use law for over 30 years. She has been actively involved as a citizen in land use matters in Charlotte County. She said there are many wetlands around this site and should not be used for commercial development.

Frank Grimaldi, 10390 Longshore Road, Unit 81 in the Landings, said he is here to object. He said he was one of the original developer's victims. He believed all the amenities would be finished. As time was going by, he realized the development did not look like it was being developed properly. He said they just wanted their profits and left the development.

Roman Kwoblic, Coral Landings #95, said he has a little sailboat and was also promised things, but he complained about the motor boats over the sailboats. He said the neighbors across the street have motorcycles and they are noises. The neighbors don't want any storage.

Marvin Medints, 15 Spyglass Alley, said he is against this request. The developer took advantage of the times and situation.

There being no further requests to speak for or against the petition, Mr. Truex moved to close the public hearing, seconded by Mr. Brown. The public hearing was closed with a unanimous vote.

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition.

Board Member Comments and Questions

Mr. Thornberry said power lines are on the site side of the road. If you look at the aerial, across the street from the site are many tall trees. When he did his site visit, he drove all up and down that area and across the street. He said criteria 2 and 6 have not been met.

Mr. Truex said he knows the area well also. There is a natural flow of the tide that filters in and out and there is a little pond on that 2 acres site that sometimes has water in it.

You can see the Landings property from there. This is the developer's responsibility and I cannot speak in favor of this. He should meet the original requirements.

Mr. Brown said he is a former power boater. He never spewed anything in the water. He lives in a deed restricted community and he understands the folks not wanting to drive by a storage facility. I am not in favor of this.

Ms. Ariens said she appreciates the applicant wants to meet the criteria but staff says they do not approve this request.

ACTION: A motion was presented by Bill Truex and seconded by Michael Brown that Petition SE-12-02 be DENIED based on the Community Development Staff Report dated March 6, 2012, the evidence and testimony presented at the hearing and finding that the applicant HAS NOT MET the required criteria for the granting of the Special Exception.

Motion was Denied with a unanimous vote.

IX. **Public Comments** - None

X. **Staff Comments** –
Ken Quillen said there is one petition for the next hearing.

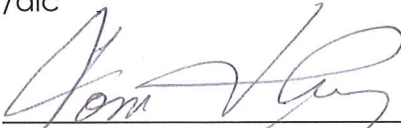
XI. **Member Comments** – None

XII. **Next Meeting**
The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, April 11, 2012, at 9:00 a.m., in Room 119.**

There being no further business, the meeting **ADJOURNED** at 12:10 p.m.

Respectfully submitted,

Diane Clim, Recorder
/dlc



Tom Thornberry, Chairman

Approval Date: 4/12/12